REMARKS

In response to the Office Action dated January 23, 2006, the Applicant has amended the claims of the application. Reconsideration of the claims, as amended, is respectfully requested.

Applicant thanks the Examiner for the courtesy shown during the telephone interview of April 19, 2006. The Applicant has attempted to modify the claims in the manner suggested by the Examiner in order to attempt to put the claims in condition for allowance.

Claims 1-36 were rejected under 35 U.S.C. §102(b) as being anticipated by *Gleichauf et al.* ("*Gleichauf*") Applicant respectfully submits that Claim 1 has been amended to recite:

> wherein each of the plurality of sequential tests are adapted to return the network security vulnerability information regarding the network system under test, the network security vulnerability information provided by each of the plurality of sequential tests being more specific to the network system under test than the network security vulnerability information provided by a previous test;

> wherein each of the plurality of sequential tests are more specifically configured to adapt to the security obstacles of the network system under test detected based on information gained from the previous test and obtain additional network security vulnerability information from the network system under test.

The recitations from the *Gleichauf* application do not describe a network security testing apparatus operating in this fashion. *Gleichauf* describes a system wherein a first phase of tests are run to assess the system and obtain vulnerability information. These tests do not progressively improve to adapt to the security obstacles of the network system but instead are run with no consideration given to the results of previously received test results. After the initial vulnerability assessment phase is done, an active exploit phase is performed wherein vulnerabilities detected by the first group of tests are exploited by the system of *Gleichauf*. This is significantly different than the limitations described with respect to Applicant's Claim 1.

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In Applicant's Claim 1, each of the plurality of sequential tests are more specifically configured to adapt to the security obstacles of the network system under test. Thus, Applicant's Claim 1 describes a system that improves its testing process as other test results are received. *Gleichauf* does not improve its testing methodology in this manner. Furthermore, the network security vulnerability information provided by each of the plurality of sequential tests is more specific to the network system under test than the network security vulnerability information provided by a previous test. Thus, the information provided by the tests run in Applicant's Claim 1 becomes more specific to the network under test with each successive test. This type of improvement of information is not described within the *Gleichauf* reference. Therefore, the Applicant respectfully submits that Claim 1, and all claims dependent therefrom, are distinguishable from the art of record and a Notice of Allowance is respectfully requested.

Furthermore, with respect to Claim 7, this claim recites the limitation of "wherein determination of whether a subsequent test is executed by said first tester or by said second tester is made at least partly upon the network security vulnerability information obtained by the previous test." The portion of the *Gleichauf* reference recited with respect to Claim 7 does not appear to describe selecting one of the NVAs over the other based upon previous test information describing network security vulnerability information. The Applicant finds no discussion of determination of use of the first or second NVA based upon network security vulnerability information obtained by a previous test. Therefore, the Applicant respectfully submits that Claim 7 is distinguishable from the art of record and a Notice of Allowance is respectfully requested.

Claim 13 has been amended to include a limitation similar to those of Claim 1. Therefore, the Applicant respectfully submits that Claim 13, and all claims dependent therefrom, are distinguishable form the art of record and a Notice of Allowance is respectfully requested.

Claim 25 includes limitations similar to those of Claims 1 and 13. The Applicant respectfully submits that Claim 25, is allowable over the art of record for reasons similar to those discussed herein above with respect to Claims 1 and 13.

Claims 76-87 and 106-111 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Gleichauf* in view of *Polk*. Claim 76 has been amended to more particularly describe the operation of the Applicant's system within a network security vulnerability testing scheme. The recitation of the *Polk* reference as describing the classification of tests as passive or active and the transformation of an active test into a network worm does not describe the recognition of the combination of the success of a first attempt and the failure of a second attempt as detection of the test by the network system under test. The disclosure in the *Polk* reference of the transformation of an active testing to a Trojan horse merely describes another manner in which network security testing may be used to further attack a system under test. It does not provide a teaching for the fact that a successful first attempt and a failed second attempt can be interpreted as detection of a task by a network system under test. Therefore, the Applicant respectfully submits that Claim 76, and all claims dependent therefrom, are distinguishable from the art of record and a Notice of Allowance is respectfully requested.

Claims 80 and 84 have been amended in a similar manner to Claim 76 and are allowable over the cited references for similar reasons. A Notice of Allowance for these claims and all claims dependent therefrom, is respectfully requested. Claims 106-111 have been canceled rendering these objections moot.

Claims 88-90 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Gleichauf* in view of *Srinivasan*. Initially, Applicant notes that Claim 88 has been amended to more particularly describe the operation of the tester for testing network security vulnerabilities of a network system under test and a test tool within the tester for "performing a test to obtain specific network security vulnerability information for the network system under test, said test tool selectable responsive to adapt to the security obstacles of the network system under test detected based on information gained from a previous received information on network security vulnerability information." The Applicant respectfully submits that the *Gleichauf* reference does not describe these limitations for the reasons discussed previously, and the *Srinivasan* reference fails to overcome the shortcomings of *Gleichauf*. A Notice of Allowance for Claim 88, and all claims dependent therefrom, is respectfully requested.

Claims 103-105 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Gleichauf et al.* ("*Gleichauf*") in view of *Gleichauf et al.* ("*Gleichauf*"). Applicant is confused with this rejection as Claims 103-105 include the limitations of Claims 63, 69 and 75. As these limitations have been indicated as allowable over the art of record, Applicant respectfully submits that these claims are allowable. A Notice of Allowance is respectfully requested.

Claims 58, 62, 64, 68, 70 and 74 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Gleichauf* in view of *Li et al.* ("*Li*"). Claim 58 has been amended to include the limitations of "a plurality of testers for testing for network security vulnerabilities of a network system under test to obtain network security vulnerability information." Additionally, Claim 58 has been amended to include the limitation of "wherein a test of the network system under test is performed by a selected tester of said plurality of testers, said selection of said selected tester to adapt to detected security obstacles of the network system under test based on information gained from a previous test to obtain more specific network security vulnerability information from the network system under test." Applicant respectfully submits that the combination of *Gleichauf* and *Li* do not describe these limitations which have been discussed previously with respect to *Gleichauf*. The *Li* reference does not overcome the shortcomings of *Gleichauf*. Therefore, the Applicant respectfully submits that Claim 58, and all claims dependent therefrom, are distinguishable from the art of record and a Notice of Allowance is respectfully requested.

Claims 64 and 70, include limitations similar to those of Claim 58. The Applicant respectfully submits that Claims 64 and 70, and all claims dependent therefrom, are allowable over the combination of *Gleichauf* and *Li* for reasons similar to those discussed with respect to Claim 58. A Notice of Allowance is respectfully requested.

In view of the foregoing amendments and comments, the Applicant respectfully submits that all pending claims are allowable over the art of record and a Notice of Allowance is respectfully requested. Please charge any additional fees or deficiencies in fees or credit any overpayment to Deposit Account No. 20-0780/CRIT-27,301 of HOWISON & ARNOTT, L.L.P.

Respectfully submitted,
HOWISON & ARNOTT, L.L.P.
Attorneys for Applicants

Brian D. Walker
Registration No. 37,751

BDW/keb

P.O. Box 741715
Dallas, Texas 75374-1715
Tel: 972-479-0462
Fax: 972-479-0464
April 24, 2006